IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.5778 OF 2003

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's orders

Mr.P.S. Dani, for the Petitioner

CORAM : F.I. REBELLO,J.
DATED : JANUARY 14, 2005

P.C.

. Rule. Heard forthwith.

2. Respondent No.1 refused to accept service. Respondent No.2 has been served. None present.

3. The challenge is to an order dated 5th January, 2001. By the said order the trial Court has ordered appointment of Commissioner to find out as to who is in real possession. That would be gathering evidence by the Court which cannot be done. It is for the parties to prove their possession. In the light of that the impugned order dated 5th January, 2001 is set aside. Rule made absolute in terms of prayer clause (a).

(F.I. REBELLO, J.)